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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,262	07/11/2001	Shoji Kito	32780	9434

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LOWELL, MA 01852

EXAMINER
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SHECHTMAN, SEAN P

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/903,262	KITO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sean P. Shechtman	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 January 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-37 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3.5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. Claims 1-37 are presented for examination.

*Priority*

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

*Oath/Declaration*

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration believes the named inventor or inventors to be the original **and first inventor** or inventors of the subject matter which is claimed and for which a patent is sought.

*Drawings*

4. The drawings are objected to because of the following:

Figures 3A, 3B, 3C, 4A, 4B, and 4C are not clearly labeled.

Figure 4C is not described in the instant specification.

The drawings fail to show a right and left oil vessel (See page 6, last paragraph of the instant specification).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "3" has been used to designate both a right oil vessel and a left oil vessel.

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The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "19" has been used to designate both a right feed switch and a left feed switch.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "17" has been used to designate both a right operating switch and a left operating switch (See especially page 8, last paragraph of the instant specification).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "18" has been used to designate both a right display portion and a left display portion.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1" has been used to designate all of a commercial fryer, a cooking start switch, and a specific mode selection screen.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "4" has been used to designate both a pulse burner and a cooking start switch.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" has been used to designate both a casing and a switch.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "3" has been used to designate both an oil vessel and a switch.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: element 23 (See the end of the first paragraph of page 8 of the instant specification).

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The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: screen 2-1 and screen 2-2.

5. The examiner has provided a number of examples of the drawing deficiencies above, however, the list of deficiencies may not be all inclusive. Applicant should refer to these as examples of deficiencies and should make all the necessary corrections to eliminate the drawing objections.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

6. The disclosure is objected to because of the following informalities:

Referring to page 4, the last full paragraph, examiner respectfully believes that the word "concreat" should be "concrete".

Referring to pages 5-6, the brief description of the drawings does not adequately distinguish figures 4A, 4B, and 4C.

Appropriate correction is required.

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Maintenance of a cooking utensil.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 5, 7, 8, 13-15, and 20-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5, and 13-15 recite the limitation "each maintenance item" in, for example, page 2 of the amendment filed on July 11<sup>th</sup>, 2001. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, it will be assumed that the execution time can be set for a maintenance item.

Claims 7 and 20-24 recite the limitation "the corresponding maintenance work" in, for example, page 2 of the amendment filed on July 11<sup>th</sup>, 2001. There is insufficient antecedent basis for this limitation in the claim.

Claims 8, and 25-29 recite the limitation "after the information has been called off" in, for example, page 2 of the amendment filed on July 11<sup>th</sup>, 2001. There is insufficient antecedent basis for this limitation in the claim.

Claims 8, and 26-30 recite the limitation "the same cycle condition" in page 2 of the amendment filed on July 11<sup>th</sup>, 2001. There is insufficient antecedent basis for this limitation in the claim.

Referring to claims 8 and 26-30, it is unclear what kind of "cycle condition" applicant intends to claim. Claim 2 is the only claim including a limitation of a cycle condition.

9. Due to the number of 35 USC § 112 rejections, the examiner has provided a number of examples of the claim deficiencies in the above rejections, however, the list of rejections may not be all inclusive. Applicant should refer to these rejections as examples of deficiencies and

should make all the necessary corrections to eliminate the 35 USC § 112 problems and place the claims in proper format.

Due to the vagueness and a lack of clear definition of the terminology and phrases used in the specification and claims, the claims have been treated on their merits as best understood by the examiner.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art (AAP).

Referring to claim 1, AAPA teaches a cooking utensil for cooking a food by using predetermined heating means (Page 1, paragraph 2 of the instant specification, i.e., a fryer), said cooking utensil comprising: maintenance time setting means capable of arbitrarily setting a time for executing maintenance (Page 1, paragraph 2 of the instant specification, i.e., maintenance time set by a person); and informing means for informing the execution time set by the maintenance time setting means (Page 1, paragraph 2 of the instant specification, i.e., a piece of paper or a computer).

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11. Claims 1, 4, and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,186,097 to Vaseloff.

Referring to claim 1, Vaseloff teaches a cooking utensil for cooking a food by using predetermined heating means (Fig. 1), said cooking utensil comprising: maintenance time setting means capable of arbitrarily setting a time for executing maintenance (Col. 5, lines 30-58); and informing means for informing the execution time set by the maintenance time setting means (Col. 8, lines 42-48).

Referring to claim 4, Vaseloff teaches the cooking utensil above, wherein the execution time is defined as a time when a cumulative value of the number of times of the operation of the heating means has reached a predetermined standard number of times (Col. 8, lines 42-48).

Vaseloff teaches a “cooking counter” that counts the number of times the baskets are placed in the oil, wherein the number is pre-programmed. Furthermore, Vaseloff teaches the number is used to sound an alarm and display a message to filter the oil.

Referring to claim 5, Vaseloff teaches the cooking utensil above, wherein the execution time can be set for a maintenance item (Col. 5, lines 30-58).

Referring to claim 6, Vaseloff teaches the cooking utensil above, wherein the set execution time can be arbitrarily changed (Col. 5, lines 30-58; Col. 7, lines 1-16).

Referring to claim 7, Vaseloff teaches the cooking utensil above, wherein, after informing the execution time, said information is automatically called off by performing the corresponding maintenance work (Col. 7, line 56 – Col. 8, line 33; Col. 8, lines 24-25).

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Referring to claim 8, Vaseloff teaches the cooking utensil above, wherein, after the information has been called off, a next execution time can be automatically set on the same cycle condition (Col. 5, lines 30-58; Col. 8, lines 33-48).

Referring to claim 9, Vaseloff teaches the cooking utensil above, wherein the informing means displays a predetermined sign on an operating panel for the heating means (Fig. 4; Col. 4, lines 29-42).

Referring to claim 10, Vaseloff teaches the cooking utensil above, wherein, after the predetermined sign has been displayed, a maintenance item can be displayed through a predetermined operation of a switch provided on the operating panel (Fig. 4; Col. 4, lines 29-42; Col. 7, lines 9-16; Col. 8, lines 42-48).

12. Claims 1-2, and 5-10, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,918,293 to McGeorge.

Referring to claim 1, McGeorge teaches a cooking utensil for cooking a food by using predetermined heating means (Col. 1, lines 64-67; Col. 4), said cooking utensil comprising: maintenance time setting means capable of arbitrarily setting a time for executing maintenance; and informing means for informing the execution time set by the maintenance time setting means.

Referring to claims 2, 5, and 6, McGeorge teaches the cooking utensil above, wherein the execution time is defined as a time when a standard date set in a predetermined cycle based on a calendar function has expired, wherein the set execution time can be arbitrarily changed (Col. 8,

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line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30).

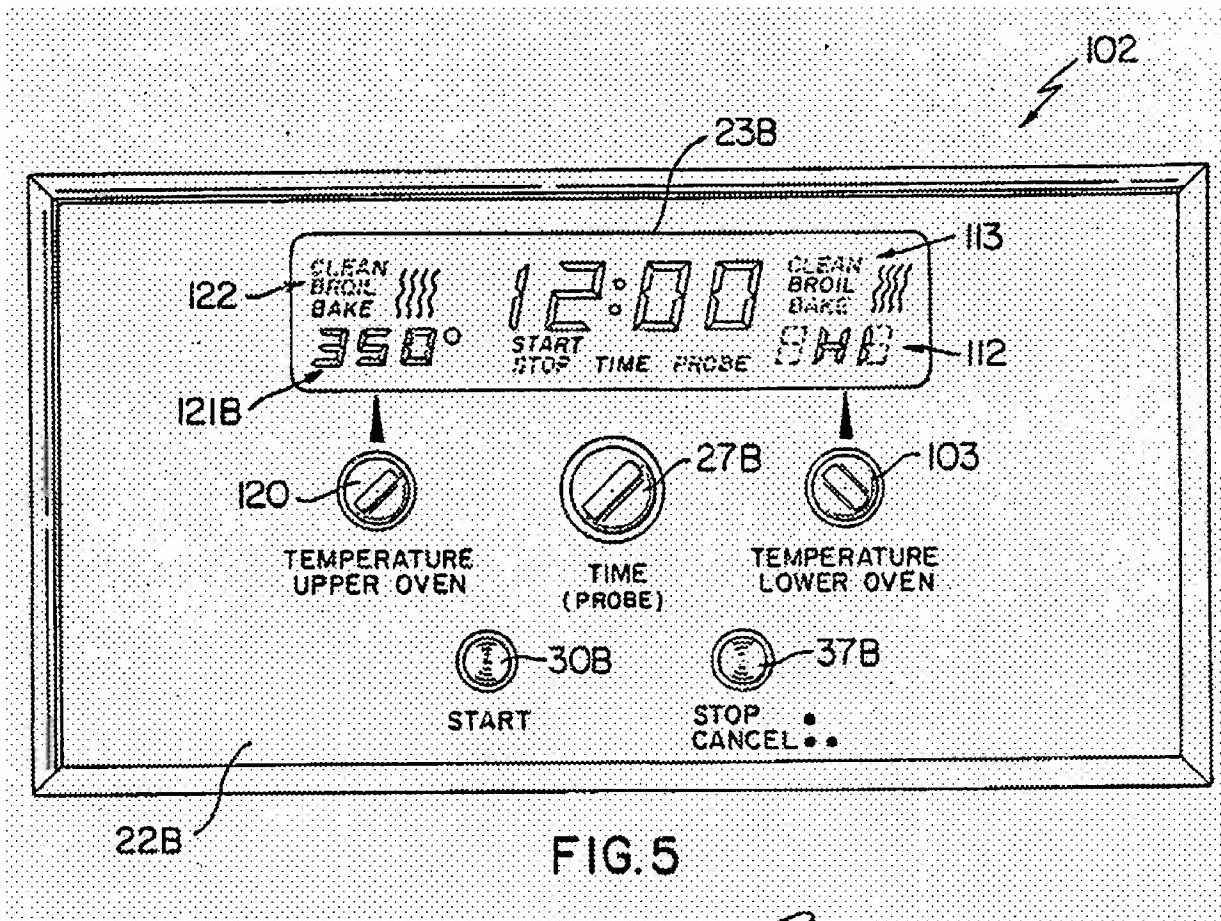
Referring to claim 7, McGeorge teaches the cooking utensil above, wherein, after informing the execution time, said information is automatically called off by performing the corresponding maintenance work (Col. 11, lines 1-17).

Referring to claim 8, McGeorge teaches the cooking utensil above, wherein, after the information has been called off, a next execution time can be automatically set on the same cycle condition (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30).

Referring to claim 9, McGeorge teaches the cooking utensil above, wherein the informing means displays a predetermined sign on an operating panel for the heating means (Fig. 5; Col. 1, line 64 – Col. 2, line 13).

Referring to claim 10, McGeorge teaches the cooking utensil above, wherein, after the predetermined sign has been displayed, a maintenance item can be displayed through a predetermined operation of a switch provided on the operating panel (Fig. 5; Col. 1, line 64 – Col. 2, line 13).

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13. Claims 1, 3, and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,331,575 to Koether.

Referring to claim 1, Koether teaches a cooking utensil for cooking a food by using predetermined heating means (Abstract), said cooking utensil comprising: maintenance time setting means capable of arbitrarily setting a time for executing maintenance; and informing means for informing the execution time set by the maintenance time setting means (Col. 3, lines 49-62; Col. 4, line 65- Col. 5, line 8; Col. 10, claims 1-2).

Referring to claim 3, 5, and 6, Koether teaches the cooking utensil above, wherein the execution time is defined as a time when a cumulative value of the operating time of the heating

means has reached a predetermined standard time, wherein the set execution time can be arbitrarily changed (Col. 3, lines 49-62).

Referring to claims 7 and 8, Koether teaches the cooking utensil above, wherein, after informing the execution time, said information is automatically called off by performing the corresponding maintenance work, wherein, after the information has been called off, a next execution time can be automatically set on the same cycle condition (Col. 5, lines 9-15).

14. Claims 1, 6, 9, 10, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 2002/0005403 to Suzuki.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Referring to claim 1, Suzuki teaches cooking utensil for cooking a food by using predetermined heating means (Fig. 1), said cooking utensil comprising: maintenance-time setting means capable of arbitrarily setting a time for executing maintenance; and informing means for informing the execution time set by the maintenance time setting means (Page 2, paragraphs 0024, 0026-0027).

Referring to claim 6, Suzuki teaches the cooking utensil above, wherein the set execution time can be arbitrarily changed (Page 2, paragraph 0027).

Referring to claims 9 and 35, Suzuki teaches the cooking utensil above, wherein the informing means displays a predetermined sign on an operating panel for the heating means (Fig. 4; Page 2, paragraph 0026).

Referring to claim 10, Suzuki teaches the cooking utensil above, wherein, after the predetermined sign has been displayed, a maintenance item can be displayed through a predetermined operation of a switch provided on the operating panel (Fig. 4; Page 2, paragraph 0026).

15. Claims 1, 6, 9, 10, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 2002/0005121 to Suzuki.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Referring to claim 1, Suzuki teaches cooking utensil for cooking a food by using predetermined heating means (Fig. 1), said cooking utensil comprising: maintenance time setting means capable of arbitrarily setting a time for executing maintenance; and informing means for informing the execution time set by the maintenance time setting means (Page 2, paragraph 0025).

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Referring to claim 6, Suzuki teaches the cooking utensil above, wherein the set execution time can be arbitrarily changed (Page 2, paragraph 0025).

Referring to claims 9 and 35, Suzuki teaches the cooking utensil above, wherein the informing means displays a predetermined sign on an operating panel for the heating means (Fig. 3).

Referring to claim 10, Suzuki teaches the cooking utensil above, wherein, after the predetermined sign has been displayed, a maintenance item can be displayed through a predetermined operation of a switch provided on the operating panel (Fig. 3).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 11-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,918,293 to McGeorge as applied to claims 1-2, and 5-10 above, and further in view of U.S. Pat. No. 5,331,575 to Koether, and further in view of U.S. Pat. No. 5,186,097 to Vaseloff.

Referring to claims 11 and 12, Vaseloff teaches the cooking utensil above, wherein the execution time is defined as a time when a cumulative value of the number of times of the operation of the heating means has reached a predetermined standard number of times (Col. 8, lines 42-48). Vaseloff teaches a "cooking counter" that counts the number of times the baskets are placed in the oil, wherein the number is pre-programmed. Furthermore, Vaseloff teaches the number is used to sound an alarm and display a message to filter the oil.

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Referring to claims 13-15, McGeorge (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30 of '293), Koether (Col. 5, lines 9-15 of '575) and Vaseloff (Col. 5, lines 30-58 of '097) all teach that a microprocessor is programmable to control several maintenance cycles,

Referring to claims 16-24, McGeorge (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30 of '293), Koether (Col. 5, lines 9-15 of '575) and Vaseloff (Col. 5, lines 30-58 of '097) all teach that the execution time can be changed arbitrarily, and, after informing the execution time, said information is automatically called off by performing the corresponding maintenance work.

Referring to claims 25-30, McGeorge (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30 of '293), Koether (Col. 5, lines 9-15 of '575) and Vaseloff (Col. 5, lines 30-58 of '097) all teach that after the information has been called off, a next execution time can be automatically set on the same cycle condition.

Referring to claims 31-37, McGeorge (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30 of '293) and Vaseloff (Col. 5, lines 30-58 of '097) teach the informing means displays a predetermined sign on an operating panel for the heating means.

Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to combine the microprocessor programming maintenance of McGeorge, Koether, and Vaseloff at predetermined execution times with the automatic informing and setting means.

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One of ordinary skill in the art would have been easily motivated to combine these references to program a microprocessor with the specific maintenance execution functions of McGeorge, Koether, and Vaseloff because of the following:

Koether teaches a programmed cooking computer with an improved technique of determining when a filter, i.e., maintenance operation must occur and for determining when to change the shortening (Col. 3, lines 23-42 of '575).

Vaseloff teaches a cooking apparatus which dynamically modifies a cooking energy profile for use during a cooking cycle and a programmed processor for controlling the heater in accordance with a programmed control algorithm (Col. 1, line 53 – Col. 2, line 38 of '097).

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents or publications are cited to further show the state of the art with respect to a cooking utensil with maintenance execution based on a calendar function.

U.S. Pat. No. 5,534,680 to Kadwell.

U.S. Pat. No. 5,875,430 to Koether.

U.S. Pub. No. 2002/0082924 to Koether.

The following patents or publications are cited to further show the state of the art with respect to a cooking utensil with maintenance execution based on both a calendar function and accumulated operating time.

U.S. Pat. No. 6,509,551 to Metcalfe.

U.S. Pat. No. 2002/0005401 to Meyer.

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18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean P. Shechtman whose telephone number is (703) 305-7798. The examiner can normally be reached on Monday-Friday from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard, can be reached on (703) 308-0538. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

SPS

Sean P. Shechtman

September 5, 2003

  
LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100